

## SUBCHAPTER P—PROTECTION OF EMPLOYEES

### PART 865—PROTECTION OF EMPLOYEES

Sec.

865.1 Scope.

865.11 Protected activity.

865.12 Procedures for filing an application for review of discrimination.

865.13 Investigation and conference procedures.

865.14 Request for hearing.

865.15 Formal adjudicatory proceedings.

AUTHORITY: Secs. 201, 501, 502 and 703, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201.)

SOURCE: 42 FR 62712, Dec. 13, 1977, unless otherwise noted. Redesignated at 44 FR 15312, Mar. 13, 1979.

#### § 865.1 Scope.

This part establishes procedures regarding—

(a) The reporting of acts of discriminatory discharge or other acts of discrimination under the Act caused by any person. Forms of discrimination include, but are not limited to: Firing, suspension, transfer or demotion, denial or reduction of wages and benefits, coercion by promises of benefits or threats of reprisal, and interference with the exercise of any rights afforded under the Act;

(b) The investigation of applications for review and holding of informal conferences about the alleged discrimination; and

(c) The request for formal hearings with the Office of Hearings and Appeals.

#### § 865.11 Protected activity.

(a) No person shall discharge or in any other way discriminate against or cause to be fired or discriminated against any employee or any authorized representative of employees because that employee or representative has—

(1) Filed, instituted or caused to be filed or instituted any proceedings under the Act by—

(i) Reporting alleged violations or dangers to the Secretary, the State Regulatory Authority, or the employer or his representative.

(ii) Requesting an inspection or investigation; or

(iii) Taking any other action which may result in a proceeding under the Act.

(2) Made statements, testified, or is about to do so—

(i) In any informal or formal adjudicatory proceeding;

(ii) In any informal conference proceeding;

(iii) In any rulemaking proceeding;

(iv) In any investigation, inspection or other proceeding under the Act;

(v) In any judicial proceeding under the Act.

(3) Has exercised on his own behalf or on behalf of others any right granted by the Act.

(b) Each employer conducting operations which are regulated under this Act, shall within 30 days from the effective day of these regulations, provide a copy of this part to all current employees and to all new employees at the time of their hiring.

[42 FR 62712, Dec. 13, 1977; 43 FR 2722, Jan. 19, 1978. Redesignated at 44 FR 15312, Mar. 13, 1979]

#### § 865.12 Procedures for filing an application for review of discrimination.

(a) *Who may file.* Any employee, or any authorized representative of employees, who believes that he has been discriminated against by any person in violation of § 865.11(a) of this part may file an application for review. For the purpose of these regulations, an application for review means the presentation of a written report of discrimination stating the reasons why the person believes he has been discriminated against and the facts surrounding the alleged discrimination.

(b) *Where to file.* The employee or representative may file the application for review at any location of the Office and each office shall maintain a log of all filing.

(c) *Time for filing.* The employee or representative shall file an application for review within 30 days after the alleged discrimination occurs. An application is considered filed—